

UNITED STATES COURT OF APPEALS

Filed 6/20/96

TENTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JAMES HILL THOMAS, true name John
Westley Dailey,

Defendant - Appellant.

No. 95-6403

(D. Ct. No. CR-91-198-T)

(W.D. Okla.)

ORDER AND JUDGMENT*

Before TACHA, BALDOCK, and BRISCOE, Circuit Judges.

After examining the briefs and the appellate record, this three-judge panel has determined unanimously that oral argument would not be of material assistance in the determination of this appeal. See Fed. R. App. P. 34(a); 10th Cir. R. 34.1.9. The cause is therefore ordered submitted without oral argument.

This appeal is from an order sentencing defendant to the maximum sentence under the applicable guideline range. Defendant appeals on the ground that the district court failed to state adequate reasons for the sentence at the top of the range. In this case,

*This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. This court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

defendant was sentenced upon resentencing to a 235 month sentence on counts one and two of a four count indictment and a 60 month consecutive sentence on count three, for a total term of 295 months. At the time the district court made the decision to impose the sentence at the top of the guideline range, the court specifically identified a series of factors that it took into consideration in establishing the guideline sentence. The district court is required by 18 U.S.C. § 3553(c) to state a specific reason for imposing a sentence at a particular point within the guideline range. The district court, in articulating the reasons for the guideline sentence, made clear that none of the enhancements that were added to the base sentence adequately reflected the seriousness of the actions by the defendant and the danger that he created by engaging in his criminal behavior. Further, the district court stated specifically additional factual reasons for selecting the particular sentence. We find that the district court complied adequately with the requirement of 18 U.S.C. § 3553(c) and relied upon the appropriate factors listed on 18 U.S.C. § 3553(a). We therefore affirm the order of the district court.

The mandate shall issue forthwith.

ENTERED FOR THE COURT,

Deanell Reece Tacha
Circuit Judge